

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Melinda Nelson,

Civil No. 11-3346 (DWF/FLN)

Plaintiff,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Michael J. Astrue, Commissioner  
of Social Security,

Defendant.

This matter is before the Court upon Defendant Michael J. Astrue's ("Defendant") objections (Doc. No. 24) to Magistrate Judge Franklin L. Noel's December 12, 2012 Report and Recommendation (Doc. No. 23) insofar as it recommends that: (1) Plaintiff's Motion for Summary Judgment be granted in part and denied in part; (2) Defendant's Motion for Summary Judgment be denied; and (3) the Commissioner's decision be reversed and the case be remanded, pursuant to sentence four of 42 U.S.C. § 405(g), for further administrative proceedings consistent with Magistrate Judge Noel's Report and Recommendation. Plaintiff's counsel filed a response to Defendant's objections on January 11, 2013. (Doc. No. 26.)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant's objections.

Defendant objects to the Report and Recommendation and maintains that the ALJ's finding of non-disability is supported by substantial evidence and should be affirmed. In particular, Defendant argues that the ALJ's decision is adequately articulated and that substantial evidence supports the weight assigned by the ALJ to the medical opinions in Plaintiff's record. Having carefully reviewed the record, the Court concludes that Defendant's objections offer no basis for departure from the Report and Recommendation and that Magistrate Judge Noel correctly determined that the matter should be remanded to the ALJ for further action.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

### **ORDER**

1. Defendant Michael J. Astrue's objections (Doc. No. [24]) to Magistrate Judge Franklin L. Noel's December 12, 2012 Report and Recommendation are **OVERRULED**.

2. Magistrate Judge Franklin L. Noel's December 12, 2012 Report and Recommendation (Doc. No. [23]) is **ADOPTED**.

3. Plaintiff's Motion for Summary Judgment (Doc. No. [13]) is **GRANTED IN PART and DENIED IN PART**.

4. Defendant's Motion for Summary Judgment (Doc. No. [18]) is **DENIED**.

5. The Commissioner's decision is **REVERSED** and the case is **REMANDED**, pursuant to sentence four of 42 U.S.C. § 405(g), for further administrative proceedings consistent with the Report and Recommendation of Magistrate Judge Franklin L. Noel.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: March 18, 2013

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge